

# MEMORANDUM

Agenda Item No. 7(D)(1)(J)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** January 20, 2004

**FROM:** George M. Burgess  
County Manager



**SUBJECT:** Resolution Approving Fiscal  
Year 2003-2004 Stormwater  
Management Budget for the  
City of North Miami pursuant  
to an Interlocal Agreement with  
the Miami-Dade County  
Stormwater Utility

## RECOMMENDATION

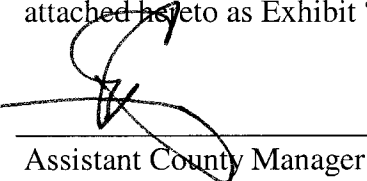
It is recommended that the Board, acting as the governing body of the Miami-Dade County Stormwater Utility (Utility), adopt the attached resolution approving the stormwater management budget for fiscal year 2003-2004 for the City of North Miami (City). This annual approval is required pursuant to an Interlocal Agreement between the City and the Utility.

## BACKGROUND

The Board of County Commissioners of Miami-Dade County did, by adoption of Miami-Dade County Ordinances No. 91-66 and Ordinance No. 91-120, as amended by Ordinance Nos. 92-44 and 92-86, create a stormwater utility which may operate within a municipality or municipalities.

The municipalities were given the option to become part of the Utility or to create their own dedicated source of stormwater funding in accordance with Section 403, Florida Statutes. Pursuant to Resolution R-1417-97, passed and adopted on December 2, 1997, the City opted out of the Utility and created its own Stormwater Utility.

The municipal stormwater management budget for the City of North Miami, finalized and executed by the City on October 14, 2003, and attached hereto as Exhibit "B", has been submitted to the Utility pursuant to the requirements set forth in the Interlocal Agreement attached hereto as Exhibit "A".



Assistant County Manager



# MEMORANDUM

(Revised)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** January 20, 2004

A handwritten signature in black ink, appearing to read "Robert A. Ginsburg".

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No. 7(D)(1)(J)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(D)(1)(J)  
1-20-04

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING FISCAL YEAR 2003-2004  
STORMWATER MANAGEMENT BUDGET FOR THE  
CITY OF NORTH MIAMI PURSUANT TO AN  
INTERLOCAL AGREEMENT WITH THE MIAMI-  
DADE COUNTY STORMWATER UTILITY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board, acting as the governing body of the Miami-Dade County Stormwater Utility, hereby approves the fiscal year 2003-2004 stormwater management budget for the City of North Miami in substantially the form attached hereto and made a part hereof.

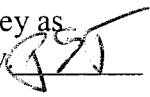
The foregoing resolution was offered by Commissioner \_\_\_\_\_,  
who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_  
and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency   
Peter S. Tell

By: \_\_\_\_\_  
Deputy Clerk

## Attachment “A”

Interlocal Agreement Between the City of North Miami  
and the Miami-Dade County Stormwater Utility

# MEMORANDUM

Agenda Item No. 7(D)(1)(B)

**TO:** Honorable Chairperson and Members  
Board of County Commissioners

**DATE:** June 3, 2003

**FROM:** Steve Shiver  
County Manager

**SUBJECT:** Resolution Authorizing the County  
Manager to Execute an Interlocal  
Agreement between the City of North  
Miami Stormwater Utility and the Miami-  
Dade County Stormwater Utility

## RECOMMENDATION

It is recommended that the Board approve the attached resolution authorizing the County Manager to execute an interlocal agreement with the City of North Miami Stormwater Utility (City) for stormwater management. This agreement is effective upon execution and will remain in effect for a period of five years, as the previous five-year agreement will expire on March 14, 2004. The agreement establishes relationships and responsibilities for operation, maintenance, repair, and enhancement of stormwater systems shared by the City of North Miami and the Miami-Dade County Stormwater Utility.

## BACKGROUND

The Utility was established as a countywide utility by the Miami-Dade County Board of Commissioners through the adoption of Ordinance 91-66, creating Article IV of Chapter 24 of the Code of Miami-Dade County. The countywide applicability of this utility sets a uniform approach to stormwater management in Miami-Dade County. The municipalities were given the option to become part of the Miami-Dade County program or to create their own dedicated source of stormwater funding in accordance with Section 403, Florida Statutes.

Pursuant to Resolution R-1417-97, passed and adopted on December 2, 1997, the City of North Miami opted out of the Miami-Dade County Stormwater Utility and created its own Stormwater Utility as its funding source. The proposed interlocal agreement establishes relationships and responsibilities for the operation, maintenance, repair, and enhancement of stormwater systems shared by the City of North Miami and the Miami-Dade County Stormwater Utility.

## FISCAL IMPACT

The City of North Miami will be responsible for \$34,330 in shared costs and the cost to the Miami-Dade County Stormwater Utility will be \$83,100.

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(D)(1)(B)  
6-3-03

**OFFICIAL FILE COPY**  
CLERK OF THE BOARD  
OF COUNTY COMMISSIONERS  
DADE COUNTY, FLORIDA

RESOLUTION NO. R-592-03

RESOLUTION AUTHORIZING THE COUNTY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH MIAMI STORMWATER UTILITY AND THE MIAMI-DADE COUNTY STORMWATER UTILITY FOR STORMWATER MANAGEMENT; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE THE TERMINATION PROVISIONS CONTAINED THEREIN

RECEIVED  
STORMWATER UTILITY  
SECTION

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the interlocal agreement between the City of North Miami Stormwater Utility (City) and the Miami-Dade County Stormwater Utility (Utility) for stormwater management responsibilities and the sharing of applicable Utility funds for stormwater management work performed by the City and the Utility in shared drainage systems within the boundaries of the City, effective upon execution for up to a period of five (5) years with an option to renew for an additional five-year period, in substantially the form attached hereto, and made a part hereof; and authorizes the County Manager to execute same for and on behalf of the Utility; and to exercise the termination provisions contained therein.

*[Handwritten signature]*

RESOLUTION NO. 2003-15

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH MIAMI AND THE MIAMI-DADE COUNTY STORMWATER UTILITY.

WHEREAS, the City Administration of North Miami desires to negotiate and execute an interlocal agreement with the Miami-Dade County Stormwater Utility for the provision of coordinated stormwater services; and

WHEREAS, the Mayor and City Council desires to authorize the negotiation and execution of the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

**Section 1.** That the City Manager and City Attorney are authorized to negotiate and execute an interlocal agreement with the Miami-Dade Stormwater Utility, in substantially the form attached as Exhibit "1."

PASSED and ADOPTED by a 4-0 vote of the Mayor and City Council this 25 day of March, 2003.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY



RECEIVED

RESOLUTION NO. 2003-15

STORMWATER UTILITY  
SECTION

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH MIAMI AND THE MIAMI-DADE COUNTY STORMWATER UTILITY.**

WHEREAS, the City Administration of North Miami desires to negotiate and execute an interlocal agreement with the Miami-Dade County Stormwater Utility for the provision of coordinated stormwater services; and

WHEREAS, the Mayor and City Council desires to authorize the negotiation and execution of the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

**Section 1.** That the City Manager and City Attorney are authorized to negotiate and execute an interlocal agreement with the Miami-Dade Stormwater Utility, in substantially the form attached as Exhibit "1."

PASSED and ADOPTED by a 4-0 vote of the Mayor and City Council this 25 day of March, 2003.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

J. C. Dellap/2A 3-18-03  
CITY ATTORNEY

RECEIVED

CITY OF NORTH MIAMI  
 UTILITY OPERATIONS CENTER  
 1815 NE 150th STREET  
 NORTH MIAMI, FL 33181  
 (305)787-1001

FEB 04 2000

LETTER OF TRANSMITTAL

DATE: JANUARY 31, 2003

JOB NO. \_\_\_\_\_

ATTN: \_\_\_\_\_

REF: INTERLOCAL AGREEMENT

TO: ANTONIO J. COTARELO, P.E.  
 CHIEF, WATER MANAGEMENT DIVISION  
 MIAMI-DADE DERM  
 33 SW 2 AVENUE  
 MIAMI, FLORIDA 33130-1540

WE ARE SENDING YOU: ☐ ATTACHED  
☐ UNDER SEPARATE COVER VIA \_\_\_\_\_ THE FOLLOWING ITEMS:

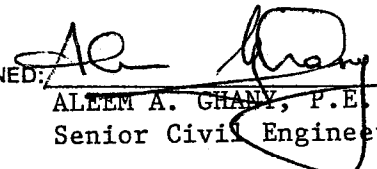
☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications  
☐ Copy of letter ☐ Change Order ☐ \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
		1	INTERLOCAL AGREEMENT BETWEEN THE
			CITY OF NORTH MIAMI STORMWATER
			UTILITY & MIAMI-DADE COUNTY
			STORMWATER UTILITY

THESE ARE TRANSMITTED AS CHECKED BELOW:

☐ For Approval ☐ Approved as Submitted ☐ Resubmit \_\_\_\_\_ copies for approval  
☒ For your use ☐ Approved as noted ☐ Submit \_\_\_\_\_ copies for distribution  
☒ As requested ☐ Returned for corrections ☐ Return \_\_\_\_\_ corrected prints  
☐ For review & comment ☐ \_\_\_\_\_  
☐ FOR BIDS DUE \_\_\_\_\_, 19\_\_\_\_ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS: PLEASE FIND ATTACHED ONE ORIGINAL INTERLOCAL AGREEMENT  
 SIGNED & DATED BY THE CITY MANAGER

SIGNED:   
 ALLEN A. CHAN, P.E.  
 Senior Civil Engineer

COPY TO: file

INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF NORTH MIAMI  
STORMWATER UTILITY  
AND  
THE MIAMI-DADE COUNTY  
STORMWATER UTILITY

MIAMI-DADE COUNTY  
STORMWATER UTILITY (305) 372-6656  
33 SOUTHWEST SECOND AVENUE, SUITE 200

INTERLOCAL AGREEMENT BETWEEN THE CITY OF NORTH MIAMI  
STORMWATER UTILITY AND THE MIAMI-DADE COUNTY STORMWATER UTILITY  
FOR STORMWATER MANAGEMENT

THIS INTERLOCAL AGREEMENT, {the "Agreement"} by and between the Miami-Dade County Stormwater Utility, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida [hereinafter sometimes referred to as "UTILITY",] and the City of North Miami Stormwater Utility, a public body corporate and politic, through its governing body, the North Miami City Council of the City of North Miami, Florida [hereinafter sometimes referred to as "CITY",] is entered into this day of \_\_\_\_\_, 2003.

WITNESSETH

WHEREAS, Section 403.0893, Florida Statutes, authorizes the establishment of stormwater utilities to plan, construct, operate, and maintain stormwater management systems; and

WHEREAS, the Board of County Commissioners of Miami-Dade County, did, by adoption of Miami-Dade County Ordinances No. 91-66 and Ordinance No. 91-120, as amended by Ordinance Nos. 92-44 and 92-86, create a stormwater utility [hereinafter referred to as the "UTILITY",] and which UTILITY may, operate within a municipality or municipalities; and

WHEREAS, it is the intent of the UTILITY and the CITY, through this Agreement, to establish relationships and responsibilities for operation, maintenance, repair, and enhancement of shared stormwater systems by the CITY and the UTILITY; and

WHEREAS, the UTILITY and the CITY recognize that there are capital and operating costs as well as benefits associated with operating, maintaining, repairing and enhancing shared stormwater drainage systems; and

WHEREAS, the UTILITY and the CITY want to share these costs in proportion to the drainage area the service provided and the benefits received,

Now, therefore, in consideration of the mutual promises and covenants contained herein and the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

## ARTICLE I PURPOSES

The UTILITY and the CITY enter into this Agreement to further the following purposes:

- (1) to protect and promote the public health, safety, and general welfare through the management of stormwater run-off;
- (2) to maintain and improve water quality and preserve and enhance the environmental quality of the receiving waters;
- (3) to control flooding that results from rainfall events;
- (4) to deter unmanaged rainwater from eroding sandy soils and causing sedimentation;
- (5) to deter the disruption of the habitat of aquatic plants and animals;
- (6) to promote intergovernmental cooperation in effectively and efficiently managing stormwater run-off;
- (7) To maintain, repair and enhance shared stormwater systems located within the limits of the drainage service areas in accordance with the approved plans. These include maintaining canals, flow control structures and stormwater pump stations and their mechanical and electrical components; and enhancing stormwater systems as determined by conditions of the system and the level of service established.
- (8) To provide a mechanism for the UTILITY and the CITY to share and allocate the cost of maintaining, repairing and enhancing shared stormwater drainage systems as stated in (7), above.

## ARTICLE II DEFINITIONS

Agreement shall mean this document, including any written amendments, attachments, and other written documents, which are expressly incorporated by reference.

Stormwater Management Plans shall mean stormwater management plans developed by both the CITY and by the UTILITY, to meet the required level of service as established in their respective stormwater management programs or master plan pursuant to Florida Statute 403.0891.

City Stormwater Utility Budget shall mean the CITY's developed and approved fiscal year budget which includes a component for stormwater management of its drainage system,

including capital and operating outlays necessary to maintain the level of service established in the City's Stormwater Management Plans.

Utility Stormwater Budget shall mean the UTILITY's developed and approved fiscal year budget for stormwater management of its drainage system, including capital and operating outlays necessary to maintain the level of service established in the Utility's Approved Plans.

Shared Stormwater Drainage System shall mean that portion of the drainage system owned by either the CITY or the UTILITY to which both the CITY and the UTILITY contribute, stormwater runoff and which is identified in Attachment A.

Costs allocable to the City shall mean those portions of the actual capital and operating outlays budgeted by the UTILITY in its yearly budget process, which are allocated to the CITY based on the CITY's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the UTILITY.

Costs allocable to the Utility shall mean those portions of the actual capital and operating outlays budgeted by the CITY in its yearly budget process, which are allocated to the UTILITY based on the UTILITY's relative stormwater runoff contribution to the shared portion of the stormwater drainage system of the CITY.

Operating Outlays shall mean expenses budgeted by the CITY and the UTILITY which are actual expenses incurred in the fiscal year, which due to their nature are considered reoccurring expenses to sustain yearly stormwater drainage operations.

Capital Outlays shall mean expenses budgeted by the CITY and the UTILITY which are actual expenses incurred in the fiscal year, which due to their nature are considered non-reoccurring and producing a long term benefit to the users. The yearly charges allocable to the CITY or to the UTILITY shall be that amount prorated over the useful life of the capitalized item based on a 20 year useful life.

Fiscal Year shall mean the period beginning on October 1 and ending on September 30.

Force Majeure shall mean an act of God, epidemic, lightning, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights or obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subcontractors, third-party contractors, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

Project Manager shall mean the persons designated by the CITY and by the UTILITY to serve as the representative of each for the purposes of exchanging communications and to issue and receive directives pursuant to and within the powers provided under this Agreement.

Written notice shall mean written communication to and from the Project Managers.

### ARTICLE III STATEMENT OF WORK

The CITY AND the UTILITY shall fully and timely perform all work tasks described in this Statement of Work:

The CITY shall maintain, repair and enhance shared stormwater systems located within the limits of the drainage service areas in accordance with the, CITY's stormwater management plans including the NE 12<sup>th</sup> Avenue East Storm Pump Station.

The UTILITY shall maintain, repair and enhance shared stormwater management systems located within the limits of the drainage service areas in accordance with the, Attachment "A". In addition the pump station located at Rucks Park shall be maintained by the UTILITY at no cost to the CITY.

The CITY's relative stormwater runoff contribution to the UTILITY's shared drainage system: is 30% for the pump station at Seaboard Acres and the Seaboard Acres ditch, and 100% for the Little Arch Creek Salinity Control Structure and the Little Arch Creek Canal. The UTILITY's relative stormwater runoff contribution to the shared drainage system is 30% for the NE 12<sup>th</sup> Avenue E – Storm Pump Station.

### ARTICLE IV TERM OF THE AGREEMENT

#### Initial Term

The initial term of this Agreement shall be for a period of five (5) years beginning on the date of execution by both parties hereto, provided, however, either party may terminate this Agreement without cause prior to the expiration date upon one (1) year's advance written notice to the other party of such termination.

#### Option to Renew

Upon mutual written consent of the parties, this Agreement may be extended for another term of five (5) years.

## ARTICLE V

### CITY AND UTILITY RESPONSIBILITIES

A. Upon the request of either the CITY or the UTILITY, each shall share information in matters related to operations, maintenance, design and construction costs and cost allocation determinations associated with shared drainage systems.

B. The CITY and the UTILITY shall provide notice to each other, as provided, in this Agreement designating their respective Project Manager. Each shall promptly notify each other of any change in the Project Manager designation by written notice as specified in this Agreement.

C. Prior to each fiscal year, the CITY will provide the UTILITY and the UTILITY will provide the CITY with a summary of shared costs on shared drainage systems. For ensuing fiscal years the CITY's and the UTILITY's estimated costs showing the shared costs allocation shall be available and transmitted to each other by March 1 of each year.

D. Commencing with fiscal year 2002-2003, the costs allocable to the CITY and the costs allocable to the UTILITY based on the relative stormwater runoff contribution to each other's shared portion of the stormwater drainage systems are included in this Agreement and presented as described in Attachment "B".

E. All shared costs are subject to review during the CITY's and UTILITY's preliminary budget process and may be accepted by the CITY and the UTILITY and are to be finalized by April 1 of each year.

These costs shall be the minimum costs necessary to accomplish the functions of the CITY and the UTILITY pertaining to the shared stormwater drainage systems.

F. At the CITY's option, an increase in the number of cycles per year service levels may be performed by the CITY at the CITY's expense.

G. Payments by the CITY are to be made within 30 days after the bill presentation. In the event of a dispute on the paid amount, the CITY may notify the UTILITY of the nature of the dispute and the UTILITY shall make arrangements for the pertinent records to be made available for inspection by the CITY, as indicated under Article V(H) of this Agreement. The UTILITY shall reimburse the CITY for any amounts determined to have been overpaid by the CITY within 30 days after verification of the overpayment.

H. The CITY and the UTILITY shall maintain financial records for 5 years pertaining to this Agreement, and shall make them available within reasonable time after requesting them for inspection and copying by either the CITY or the UTILITY, at the place where the records are maintained.



I. The CITY and the UTILITY shall each be responsible for procuring independently all necessary permits in the performance of their respective work under this Agreement.

J. The CITY and the UTILITY shall each comply with all applicable regulations, ordinances and laws in effect in the performance of this Agreement.

## ARTICLE VI COMPENSATION/CONSIDERATION

A. It is the intent and understanding of the parties that this Agreement is solely for the CITY and the UTILITY. No person or entity other than the CITY or the UTILITY shall have any rights or privileges under this Agreement in any capacity whatsoever, either as a third-party beneficiary or otherwise.

## ARTICLE VII DEFAULT

### CITY Event of Default

Without limitation, the failure by the CITY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "CITY event of default".

If a CITY event of default should occur, the UTILITY shall have all of the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to CITY are terminated, effective upon such date as is designated by the UTILITY;
2. Any and all rights provided under federal laws and the laws of the State of Florida.

### UTILITY Event of Default

Without limitation, the failure by the UTILITY to substantially fulfill any of its material obligations in accordance with this Agreement, unless such failures are justified by Force Majeure, shall constitute a "UTILITY event of default".

If a UTILITY event of default should occur, the CITY shall have all of the following cumulative and independent rights and remedies:

1. The right to declare that this Agreement together with all rights granted to UTILITY are terminated, effective upon such date as is designated by the CITY;

2. Any and all rights provided under federal laws and the laws of the State of Florida.

#### ARTICLE VIII GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The UTILITY and the CITY agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

#### ARTICLE IX ENTIRETY OF AGREEMENT

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

#### ARTICLE X HEADINGS

Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

#### ARTICLE XI RIGHTS OF OTHERS

Nothing in this Agreement expressed or implied is intended to confer upon any person other than the parties any rights or remedies under or by reasons of this Agreement.

## ARTICLE XII REPRESENTATION OF CITY

The CITY represents that this Agreement has been duly authorized, executed and delivered by the City of North Miami City Council, as the governing body of the CITY and it has the required power and authority to perform this Agreement.

## ARTICLE XIII REPRESENTATION OF UTILITY

The UTILITY represents that this Agreement has been duly approved, executed and delivered by the Board of County Commissioners, as the governing body of the UTILITY, and it has granted the Miami-Dade County Manager the required power and authority to perform this Agreement.

## ARTICLE XIV WAIVER

There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement.

## ARTICLE XV INVALIDITY OF PROVISIONS, SEVERABILITY

Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

## ARTICLE XVI INDEPENDENT CONTRACTOR

CITY shall perform all work and services described as an independent contractor and not as an officer, agent, servant, or employee of the UTILITY. CITY shall have control of the work performed in accordance with the terms of this Agreement and of all persons performing the same, and CITY shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

UTILITY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the CITY. UTILITY shall have control of the work performed in accordance with the terms of this Agreement and of all persons performing the same, and UTILITY shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

Nothing in this agreement shall be construed as creating a partnership or joint venture between the UTILITY and the CITY. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant or employee of the UTILITY, nor shall any such person be entitled to any benefits available or granted to employees of UTILITY.

## ARTICLE XVII INDEMNIFICATION

To the extent permitted by law the CITY shall indemnify and hold harmless the UTILITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the UTILITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the CITY or its employees, agents, servants, partners, principals, subconsultants or subcontractors. The CITY shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the UTILITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that statute whereby the CITY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim or judgment or portions thereof, which, when totaled with all other claims or judgment paid by the CITY arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the CITY.

The UTILITY shall indemnify and hold harmless the CITY and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the CITY or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the UTILITY or its employees, agents, servants, partners, principals, subconsultants or subcontractors. The UTILITY shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the CITY, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provided, however, this indemnification shall only be to the extent and within the limitations of Section 768.28 Fla. Stat., subject to the provisions of that statute whereby the UTILITY shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum of \$100,000, or any claim

or judgment or portions thereof, which, when totaled with all other claims or judgment paid by the UTILITY arising out of the same incident or occurrence, exceed the sum of \$200,000 from any and all personal injury or property damage claims, liabilities, losses or causes of action which may arise as a result of the negligence of the UTILITY.

IN WITNESS THEREOF, the parties through their duly authorized representatives hereby execute this AGREEMENT with an effective date of June 16, 2003.

Attest:

CITY OF NORTH MIAMI, FLORIDA  
776 N.E. 125 Street  
North Miami, Florida 33161

Deputy Barbara Jorgenson 1/31/03  
City Clerk Date

Authorized signature on behalf  
of the City of North Miami, Florida.

By: Irma Plummer 31 Jan 03  
Irma Plummer Date  
City Manager

MIAMI-DADE COUNTY, FLORIDA

BY: [Signature] 6/11/03  
Steve Shiver Date  
County Manager

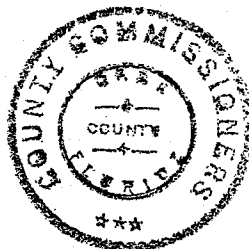
For the Board of County Commissioners, Miami-Dade  
County, Florida, as Governing Body of  
the Miami-Dade County Stormwater Utility.

Stephen P. Clark Center  
111 N.W. 1st. Street  
Miami, Florida 33128

HARVEY RUVIN, CLERK

Attest:

By: [Signature] 6/18/03  
Deputy Clerk Date



## ATTACHMENT A

### CITY OF NORTH MIAMI SHARED STORMWATER DRAINAGE SYSTEM

	<b>CANAL</b>	<b>LENGTH (Within City)</b>	<b>DRAINAGE AREA (sq.ml.)</b>
1.	Seaboard Acres	1,950	0.414 sq. mile
2.	Little Arch Creek	2,500	0.233 sq. mile

- 1- The total drainage area (both Incorporated and Unincorporated) for Seaboard Acres is = 0.414 sq. mile.

Drainage area located within North Miami is = 0.1225 sq. mile (Incorporated only, City 29.59%)

- 2- Total drainage area (total Incorporated and Unincorporated) for Little Arch Creek is = 0.233 sq. mile.

Drainage area located within North Miami is = 0.20578 sq. mile (Incorporated only, City 88.32%)

Total drainage area for both canals is =  $0.414 + 0.233 = 0.647$  sq. ml.

Total drainage area within North Miami is =  $0.1225 + 0.20578 = 0.32828$  sq. ml.

Percentage of drainage areas within City of North Miami:  $\frac{0.32828}{0.647} = 0.5074$   
 $0.5074 = 50.74\%$

## Attachment "B"

Projected Shared Costs for Fiscal Year October 2002 –  
September 2003 Pursuant to the Requirements of an  
Interlocal Agreement Between the City of North Miami  
and the Miami-Dade County Stormwater Utility



# ATTACHMENT 'B'

## MIAMI-DADE COUNTY STORMWATER UTILITY AND THE CITY OF NORTH MIAMI SHARED COSTS ON SHARED DRAINAGE SYSTEMS Fiscal Year Projected Cost October 2002 - September 2003

### Summary:

### SWU Costs:

	Cycles/Yr Budgeted	Cycle Cost \$	Cost/Yr \$	CITY's Share %	CITY's Share \$
<b>Canal Maintenance</b>					
Culverts Above					
Seaboard	2	1,250	2,500	30%	750
Culverts below					
Seaboard	1	6,700	6,700	30%	2,010
Slope Mowing					
Seaboard	3	300	900	30%	270
Chemical Treatment					
Little A. Creek	5	1,980	9,900	100%	9,900
Seaboard	5	3,960	19,800	30%	5,940
Obstruction Removal					
Little A. Creek	1	800	800	100%	800
Seaboard	1	800	800	30%	240
<b>Salinity Control Structure</b>					
Little Arch Creek					
Labor	52	150	7,800	100%	7800
Energy			200	100%	200
<b>Pump Stations:</b>					
Seaboard					
Labor	52	300	15,600	30%	4,680
Energy			5,800	30%	1,740
<b><u>CITY TOTAL SHARE</u></b>			<b><u>\$70,800</u></b>		<b><u>\$34,330</u></b>

	Cost/Yr \$	Utility's Share %	Utility's Share \$
<b>CITY COSTS</b>			
<b>Pump Stations:</b>			
<b>E-Storm Pump Station</b>			
Labor & Energy	\$ 8,000	30%	2,400
Installation of two pollution control boxes & two Drainage Injection Wells	\$269,000	30%	80,700
<b><u>UTILITY'S TOTAL SHARE</u></b>			<b><u>\$83,100</u></b>

**NOTE: The CITY and the UTILITY will each pay their share of the actual expenses incurred, not exceeding the above amount.**

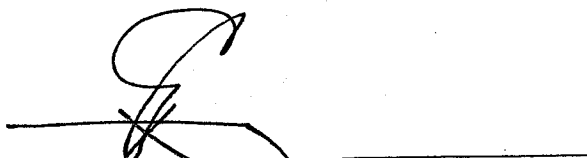
This Attachment "B" is agreed upon and accepted by the parties signed below:

City of North Miami, Florida



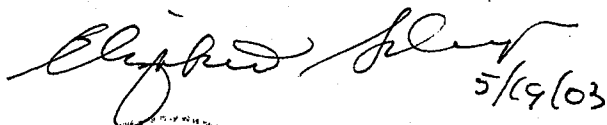
Irma Plummer  
City Manager

31 Jan 03  
Date



Steve Shiver  
Miami-Dade County Manager

5/15/03  
Date

  
5/19/03



## Attachment "B"

Projected Shared Costs for Fiscal  
Year October 2003 – September 2004  
Pursuant to the Requirements of an  
Interlocal Agreement Between the City of North  
Miami and the Miami-Dade County Stormwater  
Utility

RESOLUTION NO. R-2003-63

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY FOR PROFESSIONAL SERVICES ASSOCIATED WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT APPLICATION FOR STORM WATER DISCHARGES.

WHEREAS, the City of North Miami and Miami-Dade County entered into an agreement for the purpose of acquiring professional services including canal cleaning and maintenance, associated with the National Pollutant Discharge Elimination System (NPDES); and

WHEREAS, the City Administration has recommended that an amendment to the agreement of 2000 be entered into regarding a price increase for services.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:

Section 1. That an amendment to the interlocal agreement with Miami-Dade County, attached as Exhibit B, is approved.

Section 2. That if any of the other municipalities entering into an agreement with the County obtains any favorable contractual advantages not included in Exhibit B, then Exhibit B shall be considered amended to include such provisions.

Section 3. The City Manager and City Clerk are authorized to execute the agreement on behalf of the City as a co-permittee.

Section 4. That this Resolution will be effective upon adoption.

PASSED and ADOPTED by a 5-0 vote of the Mayor and City Council this 14 day of October, 2003.

MAYOR

ATTEST:

*Jacqui Vieira*  
CITY CLERK

APPROVED AS TO FORM:

*[Signature]*  
CITY ATTORNEY

CERTIFICATION

I certify this to be a true and correct copy of the record in my office.

WITNESSED in my hand and official

seal of the City of North Miami

Florida, this the 23 day of

October 2003

*Jacqui Vieira* Deputy City Clerk

# ATTACHMENT "B"

## CITY OF NORTH MIAMI (CITY) AND THE MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)

### SHARED COSTS ON SHARED DRAINAGE SYSTEMS Fiscal Year Projected Cost October 1, 2003 - September 30, 2004

#### A. Utility Costs:

	Cycles/Yr Budgeted	Cycle Cost \$	Cost/Yr \$	CITY's Share %	CITY's Share \$
<b>Canal Maintenance</b>					
Culverts Above					
Seaboard Acres	2	1,250	2,500	30%	750
Culverts below					
Seaboard Acres	1	4,900	4,900	30%	1,470
Culverts Above					
Arch Creek	2	350	700	30%	210
Culverts Below					
Arch Creek	1	1,400	1,400	30%	420
Bank Mowing					
Seaboard Acres	3	333	1,000	30%	300
Bank Mowing					
Arch Creek	3	67	200	30%	60
Chemical Treatment					
Little A. Creek	5	860	4,300	100%	4,300
Seaboard Acres	5	680	3,400	30%	1,020
Arch Creek	5	520	2,600	30%	780
Obstruction	1	2,300	2,300	30%	690
(Contingency)					
<b>Salinity Control Structure</b>					
Little Arch Creek					
Labor	52	187	9,700	100%	9,700
Energy			200	100%	200
<b>Pump Stations:</b>					
Seaboard					
Labor	52	462	24,900	30%	7,470
Energy			5,800	30%	1,740
			\$63,900		\$29,110

City of North Miami FY 2003 – 2004  
Page 2

	Cost/Yr \$	CITY'S Share %	CITY'S Share \$
<b>B. <u>Canal Recovery &amp; Mitigation (FEMA funded)</u></b>			
Little Arch Creek Canal Survey & Design for FEMA Dredging (Amount shown, total cost of \$14,300 * 12.5% = \$1,788) represents the total local matching fees to complete the Survey and Design.	1,788	100	\$1,788

<b>TOTAL A &amp; B FOR FY 2003-2004</b>	<b>\$30,898</b>
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	Cost/Yr \$	Utility's Share %	Utility's Share \$
<b>C. <u>City Costs</u></b>			
<b>Pump Stations:</b>			
E-Storm Pump Station			
Labor & Energy	\$25,000	30%	7,500

<b>UTILITY'S TOTAL SHARE</b>	<b>\$7,500</b>
------------------------------	----------------

**NOTE: The CITY and the UTILITY will each pay their share of the actual expenses incurred, not exceeding the above amount.**

This Attachment "B" is agreed upon and accepted by the parties signed below:

City of North Miami, Florida

  
\_\_\_\_\_  
Irma Plummer  
City Manager

18 September 03  
\_\_\_\_\_  
Date

\_\_\_\_\_  
George M. Burgess  
Miami-Dade County Manager

\_\_\_\_\_  
Date

**ATTACHMENT "B"**

**CITY OF NORTH MIAMI (CITY)**  
**AND THE**  
**MIAMI-DADE COUNTY STORMWATER UTILITY (UTILITY)**

**SHARED COSTS ON SHARED DRAINAGE SYSTEMS**  
**Fiscal Year Projected Cost October 1, 2003 - September 30, 2004**

**A. Utility Costs:**

	<b>Cycles/Yr Budgeted</b>	<b>Cycle Cost \$</b>	<b>Cost/Yr \$</b>	<b>CITY's Share %</b>	<b>CITY's Share \$</b>
<b>Canal Maintenance</b>					
Culverts Above					
Seaboard Acres	2	1,250	2,500	30%	750
Culverts below					
Seaboard Acres	1	4,900	4,900	30%	1,470
Culverts Above					
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Arch Creek	5	520	2,600	30%	780
Obstruction	1	2,300	2,300	30%	690
(Contingency)					
<b>Salinity Control Structure</b>					
Little Arch Creek					
Labor	52	187	9,700	100%	9,700
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<b>Pump Stations:</b>					
Seaboard					
Labor	52	462	24,900	30%	7,470
Energy			5,800	30%	1,740
			<b>\$63,900</b>		<b>\$29,110</b>

	Cost/Yr \$	CITY'S Share %	CITY'S Share \$
<b>B. <u>Canal Recovery &amp; Mitigation (FEMA funded)</u></b>			
Little Arch Creek Canal Survey & Design for FEMA Dredging (Amount shown, total cost of \$14,300 * 12.5% = \$1,788) represents the total local matching fees to complete the Survey and Design.	1,788	100	\$1,788

<b>TOTAL A &amp; B FOR FY 2003-2004</b>	<b>\$30,898</b>
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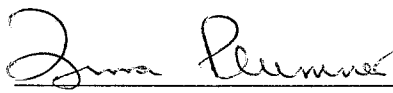
	Cost/Yr \$	Utility's Share %	Utility's Share \$
<b>C. <u>City Costs</u></b>			
<b>Pump Stations:</b>			
E-Storm Pump Station			
Labor & Energy	\$25,000	30%	7,500

<b>UTILITY'S TOTAL SHARE</b>	<b>\$7,500</b>
------------------------------	----------------

**NOTE: The CITY and the UTILITY will each pay their share of the actual expenses incurred, not exceeding the above amount.**

This Attachment "B" is agreed upon and accepted by the parties signed below:

City of North Miami, Florida

  
Irma Plummer  
City Manager

18 September 03  
Date

\_\_\_\_\_  
George M. Burgess  
Miami-Dade County Manager

\_\_\_\_\_  
Date